

**AGREEMENT OF COOPERATION
BETWEEN
CHILD PROTECTION AND PERMANENCY
AND THE STATE AND COUNTY MEDICAL EXAMINERS**

I. PURPOSE

In November 1995, the New Jersey Department of Human Services issued the Child Death and Critical Incident Review Board Report for 1992 through 1994. The Child Death and Critical Incident Review Board (the Board) recommended that Child Protection and Permanency (CP&P) implement an initiative to ensure more cooperation and coordination among CP&P, the State Medical Examiner and county medical examiners in child abuse and neglect fatality cases. In several of the 33 cases studied, the Board found there was a need to improve communication and case coordination between CP&P and medical examiners. The Board therefore recommended that CP&P initiate discussions with the State Medical Examiner to develop an "Agreement of Cooperation."

As a result, CP&P, the State Medical Examiner's Office (SMEO) and the regional and county medical examiners offices launched an endeavor to work together cooperatively in the investigation of child abuse and neglect fatalities in our State.

CP&P, within the Department of Human Services, is the State's comprehensive child welfare and child protective services agency and is required by statute (Titles 9 and 30) to investigate reports of suspected abuse and neglect. CP&P administers its work across the State through 35 District Offices, 5 adoption resource centers, 4 regional offices and a central administrative branch in Trenton.

The SMEO is located in the Department of Law and Public Safety, Division of Criminal Justice. The State Medical Examiner has general supervision over all county medical examiners to ensure compliance with the State Medical Examiner Act (the SME Act) and regulations. N.J.S.A. 52:17B-80. County medical examiners are hired by individual counties and report to the county administrators. Pursuant to N.J.S.A. 52:17B-86, medical examiners are responsible for investigating all human deaths from the following causes: violent deaths; deaths not caused by readily recognizable disease, disability or infirmity; deaths under suspicious or unusual circumstances; deaths within 24 hours after admission to a hospital or institution; deaths of inmates of prisons; deaths of inmates of institutions maintained in whole or in part at the expense of the State or county (not hospitalized for organic disease); deaths from causes which might constitute a threat to public health; deaths related to diseases resulting from employment or to accidents while employed; and sudden or unexpected deaths of infants and children under 3 years of age and fetal deaths occurring without medical attendance.

II. INTERAGENCY ACTIVITIES

In recognition that all parties have roles in the investigation of child abuse and neglect deaths of children, Child Protection and Permanency and the State, regional and county medical examiners, in order to enhance cooperation and information sharing, agree to the following:

A. COMMUNICATION PROTOCOL:

The State, regional and county medical examiners and CP&P representatives will communicate by telephone in order to have timely information sharing at the time of an incident. Telephone numbers, fax numbers and names of contact persons for all CP&P and medical examiners offices in the State are attached to this Agreement. (Attachments A and B). In addition to verbal information sharing, some cases will require the exchange of documents such as portions of CP&P case records and copies of autopsy and toxicological reports. Requests for written record materials and copies of autopsies and other medical reports shall be made in writing and may be faxed to facilitate a speedy response.

B. PROCEDURES FOR INVESTIGATIONS:

1. Role of CP&P Representatives:

The CP&P Office receiving the call from the medical examiner's office shall provide information from the CP&P records to assist the medical examiner in assessing the case. The CP&P representative will indicate whether the case is known to its office and whether it is currently active or a closed case. The CP&P representative/screener will provide information regarding the nature of the CP&P involvement and whether the case had been assessed for abuse or neglect in the past. The medical examiner will ask questions specific to the individual situation and the CP&P representative will make all efforts to provide the requested information as quickly as possible.

Of critical importance are cases where the harvesting of organs is being considered. Organ harvesting requires those involved to act with great speed. If a fatality is believed to have been caused by abuse or neglect or the case is being handled as a homicide, organ harvesting may be precluded by the necessity to maintain bodily evidence for the prosecution. Also organ harvesting may be precluded if the victim has suffered previous injuries or certain illnesses. Information recorded in the CP&P records may assist the medical examiner to determine the appropriate course of action.

2. Role of the Medical Examiners:

The medical examiner or medical examiner investigator receiving the call from the CP&P investigator or the Office of Child Abuse Control will provide information about whether an autopsy is being conducted of a child death case that is being investigated by CP&P. The medical examiner or the involved investigator will indicate whether the preliminary information

indicates the cause of death may have been due to abuse or neglect. Of critical importance to the CP&P investigator is a timely assessment as to whether there may be risk to siblings or other children remaining in the location where the incident occurred or whether children being cared for by the same parents/caretakers may also be at risk for abuse or neglect. Notwithstanding these provisions, the county medical examiner may coordinate the dissemination of information with the prosecutor where the death is or may be the subject of a criminal investigation.

3. Role of the State Medical Examiner in Mediating Local Issues

In the event that the CP&P representative is unable to obtain needed information from a county medical examiner, the State Medical Examiner should be contacted to assist the parties in resolving the present issues. If a medical examiner is unable to obtain information from CP&P representatives, the medical examiner should contact the regional administrator or designee. If the matter remains unresolved at the regional level, the State Medical Examiner should endeavor to mediate the problem.

C. AD HOC PARTICIPATION BY MEDICAL EXAMINERS ON THE DEPARTMENT OF HUMAN SERVICES CHILD DEATH AND CRITICAL INCIDENT REVIEW BOARD:

The Department of Human Services Child Death and Critical Incident Review Board (the Board) reviews fatalities of children currently or formerly (within 12 months) under the supervision of Child Protection and Permanency. The Board conducts its work under the authority of N.J.A.C. 10:16-1.1 et seq. In order to increase the expertise of the Board, a recommendation was made by the Board members and endorsed by the Department of Human Services that a medical examiner be invited to participate on Board reviews of individual CP&P cases on an ad hoc basis. Medical examiners agreeing to participate in a case review will receive complete copies of all the case materials in the file. The existing regulations regarding the Board are attached to this Agreement as appendices. (Attachment C). The regulations permit the Board to invite certain experts to participate in the Board's deliberations, and medical examiners who meet the requirements to serve as participants. Participating medical examiners would be required to sign the confidentiality statement that is required of all members of the Board.

D. COOPERATION BETWEEN CLINICIANS AND MEDICAL EXAMINERS DURING AUTOPSY AND POST AUTOPSY:

After the death of a patient, the treating physicians, especially those treating or involved with CP&P child clients, should be available to discuss pertinent clinical information with medical examiners and both should establish a line of communication for autopsy and post autopsy interaction. If feasible, these clinicians should be invited to attend the autopsy on a child with whom they have been involved. The treating physician should be encouraged to avail themselves of the invitation.

III. CONFIDENTIALITY PROVISIONS

All CP&P information and records gathered pursuant to a child abuse/neglect investigation are confidential pursuant to N.J.S.A. 9:6-8.10a. Pursuant to that statute, CP&P can share information and reports with police or other law enforcement agencies authorized to investigate a report of child abuse or neglect (N.J.S.A. 9:6-8.10 (a)(b)). The State and county medical examiners are agencies authorized to investigate child abuse or neglect and shall be provided information from CP&P files, reports and investigations as it is necessary for the medical examiners to complete their investigations. Also pursuant to statute, the medical examiner will keep all information provided by CP&P, pursuant to this section, confidential.

Pursuant to N.J.A.C. 13:49-3.1a, Medical examiner records that are required by law to be made, maintained or kept by the county or State medical examiner are the Report of Investigation by Medical Examiner (RIME), the inventory of property of value, the autopsy report, including its finding and conclusions, and the reports of external examination upon the bodies of deceased persons. Not included within this definition are any records or portions thereof which contain opinions, subjective evaluations or critical analyses.

Pursuant to N.J.A.C. 13:49-3.1b, the medical examiner shall, upon request, make available for inspection during regular business hours the records required to be made, maintained or kept as defined by N.J.A.C. 13:49-3.1a above and shall produce copies of the requested records upon payment of such reasonable fee as may be provided by this chapter, except as otherwise provided by: 1) The Right to Know Law, N.J.S.A. 47:1A-1 et seq.; 2) Laws covering confidentiality of records such as the AIDS Assistance Law, N.J.S.A. 5C-1 et seq.; 3) Any other law requiring confidentiality of records; 4) The status of an ongoing investigation as defined by Executive Order No. 123 (1985); or 5) Whenever medical examiner's records are not yet complete.

The next of kin of the decedent, immediate family members, physicians who treated the decedent for his or her last illness or injury, the decedent's legal representative, law enforcement agencies, or attorneys or insurance companies representing parties in litigation arising from the incident that caused the decedent's death are presumed to have a proper interest in these records. In event that the requester is unable to demonstrate a proper interest, the County or State Medical Examiner may advise the requester to seek a court ordered release of records.

IV. MANAGING THE AGREEMENT

It is acknowledged that no formal policy or procedural guidelines can be expected to address every conceivable circumstance which may arise during the course of the investigation of a child abuse fatality. When circumstances arise that are not specifically addressed by this Agreement, staff from all agencies involved are expected to exercise their best judgment in handling these situations promptly, by initiating timely information sharing and mutually

acceptable solutions.

V. STATEMENT OF CONSENSUS

Child Protection and Permanency and the State Medical Examiner and county medical examiners agree to work together in a spirit of partnership in the investigation of child abuse and neglect fatalities and to implement the policies and procedures outlined in this Agreement.

The Agreement may be renegotiated at the request of any participating agencies. Modification will be effected only with the mutual agreement of the parties involved after opportunity for input from all parties has been insured.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their authorized officers.

Date
Director, Division of Youth & Family Services

Date
Director, Division of Criminal Justice

Date
State Medical Examiner

Date
County Medical Examiner

